HIGH COURT OF CHHATTISGARH AT BILASPUR

Single Bench : Hon'ble Shri Dilip Raosaheb Deshmukh, J.

Second Appeal No.420 of 2004

Appellant Tenant	Jaiprakash Goyal, S/o Kapurchand Goyal, Aged about 44 years, Occupation-Truck Transportation, R/o Budhwari Bazaar, Sakti, Tah. Sakti, Distt. Janjgir-Champa (C.G.)
versus	
Respondent Landlord	Krishna Kumar, S/o Late Hajarilal Agrawal, Aged about 56 years, Occupation- Grocery Merchant, R/o Durpa Road, Korba, Tah. & Distt. Korba (C.G.)

Second Appeal under Section 100 of the Code of Civil Procedure

Present : Shri Sunil Otwani, counsel for the appellant.
Shri S.C.Verma, counsel for the respondent.

ORDER

(Passed on 5th September, 2007)

This appeal by the defendant/tenant is directed against the concurrent judgment and decree passed in Civil Appeal No.4-A/2003 dated 19-06-2004 by Shri Goutam Chouradiya, Additional District Judge, Sakti affirming the judgment and decree for eviction passed in Civil Suit No.654-A/2002 vide judgment dated 31-01-2003 by Shri N.S.Chawla, Civil Judge Class-I, Sakti granting eviction of the appellant/defendant under clauses (a), (e), (f) and (g) of sub-section (1) of Section 12 of the Chhattisgarh Accommodation Control Act, 1961 (henceforth 'the Act, 1961').

(2) At the hearing, Shri S.C.Verma, learned counsel for the respondent/landlord had submitted that the respondent/landlord relinquishes the right to evict the appellant/tenant from the accommodation in question under clauses (e) and (f) of sub-section (1) of Section 12 of the Act, 1961.

(3) So far as the judgment and decree passed by both the Courts below under clauses (a) and (g) of sub-section (1) of Section 12 of the Act, 1961 is concerned, no substantial question of law arises for determination in this appeal for the following reasons:

(i) Besides the admission of the Commissioner's report by the appellant/defendant, there is overwhelming evidence on record to show that the accommodation has become unsafe or unfit for human habitation and is required *bona fide* by the landlord for carrying out repairs, which cannot be carried out without the accommodation being vacated.

(ii) In view of the admission by the learned counsel for the appellant that there had been defaults in depositing rent during the pendency of the appeal, the appellant is not entitled to protection under Section 13(1) of the Act, 1961 or the proviso to sub-section (3) of Section 12 of the Act, 1961.

(4) In view of the submission made by the learned counsel for the respondent/landlord and also in view of the fact that no substantial question of law arises for determination in this appeal on grounds of

(a) and (g) of sub-section (1) of Section 12 of the Act, 1961, the appeal is liable to be dismissed.

(5) Accordingly, the appeal is dismissed. In the facts and circumstances of the case, the parties shall bear their own costs.

A decree be drawn accordingly.

Sd/-
Dilip RaoSaheb Deshmukh
Judge

Gopal